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3 509-529-0630  
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7 UNITED STATES DISTRICT COURT  
8 EASTERN DISTRICT OF WASHINGTON

9 JEREMIAH LINZ and AARON  
10 KAMINSKY, individually and on behalf  
of all others similarly situated,

11 Plaintiffs,

12 vs.

13 CORE VALUES ROADSIDE SERVICE,  
14 LLC, and MARK HYNDMAN,

15 Defendants.  
16  
17

NO. 2:20-cv-00107-SMJ

DEFENDANTS' ANSWER TO  
PLAINTIFFS' FIRST  
AMENDED CLASS AND  
COLLECTIVE ACTION  
COMPLAINT; AFFIRMATIVE  
DEFENSES, AND  
COUNTERCLAIMS AGAINST  
JEREMIAH LINZ

18 **DEFENDANTS CORE VALUES ROADSIDE SERVICE, LLC'S AND**  
19 **MARK HYNDMAN'S ANSWER**

20 Now comes Defendants Core Values Roadside Service, LLC ("Core  
21 Values") and Mark Hyndman, by and through counsel, and for their Answer to  
22 Plaintiffs' First Amended Class and Collective Action Complaint, and Affirmative  
23 Defenses, admits, denies, and shows the Court as follows:  
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5. Calls for a legal conclusion, therefore, denied.
6. Calls for a legal conclusion, therefore, denied.
7. Denied.

## PARTIES

- DEFENDANTS' ANSWER TO AMENDED  
COMPLAINT, AFFIRMATIVE DEFENSES, AND  
COUNTERCLAIMS, p. 2

- 1 11. Admitted only that Plaintiffs bring this action. All remaining allegations are  
2 denied.  
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4 12. Admitted only that Plaintiffs bring this action. All remaining allegations are  
5 denied.  
6  
7 13. Admitted.  
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9 14. Admitted only that Mark Hyndman is a resident of Washington and the  
10 managing member of Core Values. All remaining allegations are denied.  
11  
12 15. Denied.  
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14 16. Admitted.  
15  
16 17. Calls for a legal conclusion, therefore, denied.  
17  
18 18. Denied.  
19  
20 19. Denied.

17 **FACTUAL ALLEGATIONS**

- 18 20. Denied.  
19  
20 21. Admitted only that Plaintiffs signed Independent Service Provider  
21 Agreements. All remaining allegations are denied.  
22  
23 22. Admitted only that Independent Service Providers paid a flat amount per  
24 service provided. All remaining allegations are denied.  
25  
26 23. Denied.

1 24. Admitted only that damage to a customer's vehicle could be deducted from  
2 payments to Plaintiffs. All remaining allegations are denied.  
3

4 25. Admitted only that Core Values did not pay Plaintiffs a reimbursement  
5 based on a specific number of miles. Core Values did occasionally pay  
6 mileage charges to independent contractors as a result of negotiations  
7 between Core Values and independent contractors. All remaining  
8 allegations are denied.  
9

10 26. Denied.  
11

12 27. Denied.

13 28. Without knowledge, therefore, denied.

14 29. Calls for a legal conclusion, therefore, denied.  
15

16 30. Denied.

17 31. Denied.

18 32. Admitted only that independent contractors signed Independent Service  
19 Provider Agreements as part of their relationship with Core Values. All  
20 remaining allegations are denied.  
21

22 33. Denied.  
23

24 34. Denied.

25 35. Denied.  
26

1 36. Denied.

2 37. Calls for a legal conclusion, therefore, denied.

3 38. Denied.

4 39. Denied.

5 40. Denied.

6 41. Denied.

7 42. Denied.

8 43. Denied.

9 44. Denied.

10 45. Denied.

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15 **COLLECTIVE ACTION ALLEGATIONS**

16 46. Defendants restate and incorporate by reference the above paragraphs as if  
17 fully set forth herein.

18 47. Calls for a legal conclusion, therefore, denied.

19 48. Admitted.

20 49. Admitted only that ECF 1-1, 12 speak for themselves. All remaining  
21 allegations are denied.

22 50. Admitted only that Core Values' records speak for themselves. All  
23 remaining allegations are denied.

1 51. Without knowledge, therefore, denied.

2 52. Denied.

3 53. Denied.

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5 **CLASS ACTION ALLEGATIONS**

6 54. Admitted only that the complaint speaks for itself. All remaining allegations  
7 are denied.

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9 55. Admitted only that the complaint speaks for itself. All remaining allegations  
10 are denied.

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12 56. Admitted only that the complaint speaks for itself. All remaining allegations  
13 are denied.

14 57. Admitted only that the complaint speaks for itself. All remaining allegations  
15 are denied.

16  
17 58. Calls for a legal conclusion, therefore, denied.

18 59. Calls for a legal conclusion, therefore, denied.

19 60. Calls for a legal conclusion, therefore, denied.

20 61. Without knowledge, therefore, denied.

21 62. Without knowledge, therefore, denied.

22 63. Admitted only that Plaintiffs signed Independent Service Provider  
23 Agreements. All remaining allegations are denied.  
24  
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1 64. Without knowledge, therefore, denied.

2 65. Calls for a legal conclusion, therefore, denied.

3 66. Without knowledge, therefore, denied.

4  
5 **CAUSES OF ACTION**

6 **COUNT I – VIOLATION OF THE FAIR LABOR STANDARDS ACT**  
7 **FAILURE TO PAY STATUTORY MINIMUM WAGE**  
8 **(On behalf of Plaintiffs and the FLSA Collective)**

9 67. Defendants incorporate by reference all preceding paragraphs as if fully set  
10 forth herein.

11 68. Denied.

12 69. Denied.

13 70. Denied.

14 71. Denied.

15 72. Denied.

16  
17  
18 **COUNT II – VIOLATION OF THE FAIR LABOR STANDARDS ACT**  
19 **FAILURE TO PAY STATUTORY OVERTIME PREMIUM**  
20 **(On behalf of Plaintiffs and the FLSA Collective)**

21 73. Defendants incorporate by reference all preceding paragraphs as if fully set  
22 forth herein.

23 74. Denied.

24 75. Denied.

1 76. Denied.

2 77. Denied.

3  
4 **COUNT III – QUANTUM MERIUT/UNJUST ENRICHMENT**  
5 **IMPROPER AND UNLAWFUL PAY DEDUCTIONS**  
6 **(On behalf of Plaintiffs and the putative Class members)**

7 78. Defendants incorporate by reference all preceding paragraphs as if fully set  
8 forth herein.

9 79. Denied.

10 80. Admitted that Plaintiffs provided some benefit to Core Values under their  
11 signed Independent Service Provider Agreements. All remaining allegations  
12 are denied.  
13

14 81. Denied.

15 82. Denied.

16 83. Denied.

17 84. Denied.

18 85. Denied.

19  
20  
21 **COUNT IV – VIOLATION OF THE PENNSYLVANIA MINIMUM WAGE**  
22 **ACT, PENNSYLVANIA CODE §231.1 et seq.**  
23 **(On behalf of Plaintiffs Linz, Kaminsky, and the putative**  
24 **Pennsylvania class members)**

25 86. Defendants incorporate by reference all preceding paragraphs as if fully set  
26 forth herein.



1 87. Calls for a legal conclusion, therefore, denied.

2 88. Denied.

3  
4 **COUNT V – VIOLATION OF THE OHIO MINIMUM WAGE ACT, OHIO**  
5 **REVISED CODE §4111.01 et seq.**  
6 **(On behalf of Plaintiff Linz and the putative Ohio class members)**

7 89. Defendants incorporate by reference all preceding paragraphs as if fully set  
8 forth herein.

9  
10 90. Calls for a legal conclusion, therefore, denied.

11 91. Denied.

12  
13 **AFFIRMATIVE DEFENSES**

14 For a further pleading and for their affirmative defenses to the Complaint of  
15 the Plaintiffs, Defendants further allege and show the Court as follows:

16 Defendants reallege the contents of all paragraphs above and by this reference  
17 incorporates them herein.

18  
19 1. Plaintiffs' Complaint fails to state a claim upon which relief can be  
20 granted.

21  
22 2. Defendants have paid Plaintiffs all they are due under the parties'  
23 agreement, federal law, and applicable state law.

24  
25 3. Any alleged act or failure to act by or on behalf of Defendants was in  
26

1 good faith and Defendants had reasonable grounds for believing their alleged acts  
2 or omissions did not violate federal law or applicable state law.  
3

4 4. To the extent Plaintiffs and others similarly situated are entitled to  
5 damages, Defendants are entitled to credits for or set-offs against amounts  
6 overpaid to them.  
7

8 5. Plaintiffs fail to meet the legal requirements for a collective action or  
9 class action.  
10

11 6. Previous to the filing of the Complaint in this matter Plaintiffs and  
12 these Defendants had reached an accord and satisfaction as to the issues between  
13 them.  
14

15 7. Plaintiffs' damages, if any, stem from Plaintiffs' own acts or  
16 omissions.  
17

18 8. Plaintiffs have failed to mitigate Plaintiffs' damages, if any.  
19

20 9. Plaintiffs' claims under state law are preempted, including under the  
21 Fair Labor Standards Acts, 29 U.S.C. § 201, *et seq.*  
22

23 10. Defendants assert as affirmative defenses equitable estoppel, unclean  
24 hands, assumption of risk, waiver, estoppel, lack of consideration, lack of privity,  
25 failure to mitigate damages, failure of condition precedent, fault of a nonparty,  
26 fraud, illegality, laches, license, payment, release, statutes of limitation, and that

1 litigation has been resolved to conclusion and decisions on matters therein are  
2 therefore governed by the doctrines of collateral estoppel and res judicata.  
3

### 4 COUNTERCLAIMS

5 Having answered Plaintiffs' Complaint and asserted Affirmative Defenses,  
6 Counterclaimants Core Values Roadside Service, LLC ("Core Values") and Mark  
7 Hyndman now allege the following Counterclaims against Counter-defendant  
8 Jeremiah Linz.  
9  
10

### 11 PARTIES, JURISDICTION AND VENUE

12  
13 1.1 Counterclaimant, Core Values, is a Washington State Limited  
14 Liability Company with its principal place of business in Spokane County,  
15 Washington.  
16

17 1.2 Counterclaimant Mark Hyndman is the managing member of Core  
18 Values and is a resident and citizen of Washington State.  
19

20 1.3 Counter-defendant Jeremiah Linz, is a natural person, alleges that he  
21 is a resident of Ohio, and is already a party to this action.  
22

23 1.4 Jurisdiction is proper in this Court under 28 U.S.C. § 1367. Venue is  
24 proper in this District under 28 U.S.C. § 1391 and pursuant to the parties' forum-  
25 selection clause.  
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1 Service, provided the business hours for when Aaron Kaminsky was accepting  
2 Core Values dispatches on a regular, ongoing basis.

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4 2.8 Jeremiah Linz requested, negotiated, and received compensation from  
5 Core Values based on the work performance of Aaron Kaminsky.

6  
7 2.9 Jeremiah Linz failed to pay Aaron Kaminsky a minimum wage or  
8 overtime pay.

9  
10 2.10 Jeremiah Linz directly or indirectly exercised significant control over  
11 the wages, hours, and working conditions of Aaron Kaminsky.

12 **BREACH OF CONTRACT: INDEMNIFICATION**

13  
14 4.1 Jeremiah Linz entered into the ISPA, which is a valid, binding  
15 agreement.

16  
17 4.2 The ISPA contains an indemnification provision, which provides that  
18 Linz will indemnify Defendants against “any and all losses ... or actions of any  
19 kind (including expenses and attorneys’ fees) for ... damage connected with the  
20 performance of this Agreement.”

21  
22 4.3 In connection with his performance of this Agreement, Linz served as  
23 an employer to Aaron Kaminsky to the same extent Defendant Core Values was a  
24 putative employer of Kaminsky.  
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4.4 Linz worked in concert with Core Values to employ Aaron Kaminsky. Among other things, Linz: a) recruited Aaron Kaminsky; b) supervised and controlled his work schedule, conveying his business hours to Core Values; c) maintained work records for Kaminsky; and d) obtained remuneration based in part on Kaminsky's labor.

4.5 To the extent Core Values suffers losses due to this lawsuit related to Kaminsky, Jeremiah Linz should reimburse Core Values as a co-employer or joint tortfeasor pursuant to the indemnity provision of the ISPA.

## PRAYER FOR RELIEF

Defendants respectfully ask this Court for a judgment against Plaintiffs:

1. Denying the relief Plaintiffs seek;
2. Awarding Defendants their reasonable attorney fees and costs pursuant to contract, pursuant to Federal Rule of Civil Procedure 11, and pursuant to 28 U.S.C. § 1927;
3. Holding Jeremiah Linz jointly and severally liable with Core Values on any judgment entered against Core Values in favor of any other plaintiff; and
4. Awarding such other and further relief as to the Court may seem just and equitable.

1 Respectfully submitted this 11<sup>th</sup> day of August, 2020.

2 BASALT LEGAL PLLC

3  
4 By:  / s / Jeremy Hyndman

5 Jeremy Hyndman, WSBA #44320

6 Attorney for Defendants

## CERTIFICATE OF SERVICE

I hereby certify that on August 11, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System. I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants: NONE

SIGNED August 11, 2020, at Walla Walla, Washington.

/ s / Jeremy Hyndman